HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 04, 2015
84th Legislature, Number 62
The House convenes at noon
Part One

Thirty bills are on the daily calendar for second-reading consideration today. Three bills postponed from the May 1 general calendar also appear in today's *Daily Floor Report*. The bills analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Monday, May 04, 2015
84th Legislature, Number 62
Part 1

Postponed from May 1 general state calendar

May 4 daily calendar

Postponed from May 1 general state calendar

SUBJECT: Removing statutory allocation percentages of sales tax revenue for parks

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 19 ayes — Otto, Sylvester Turner, Ashby, Bell, G. Bonnen, Burkett, Capriglione, S. Davis, Gonzales, Howard, Hughes, Koop, Longoria, McClendon, Muñoz, Phelan, J. Rodriguez, VanDeaver, Walle

0 nays

8 absent — Dukes, Giddings, Márquez, Miles, R. Miller, Price, Raney, Sheffield

WITNESSES: For — (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Cyrus Reed, Lone Star Chapter Sierra Club; Joey Park, Texas Wildlife Association)

Against — None

On — Ursula Parks, Legislative Budget Board; Carter Smith, Texas Parks and Wildlife Department

BACKGROUND: The sporting goods sales tax (SGST) is a sales tax on sporting goods as defined in Tax Code, ch. 151. The Comptroller of Public Accounts estimates the amount of sales tax revenue collected from the sale of these items.

Under Tax Code, sec. 151.801, 94 percent of revenue from the sale or use of sporting goods is dedicated to funds within the Texas Parks and Wildlife Department (TPWD) for the operation and upkeep of state and local parks. The SGST revenue is allocated as follows:

- 74 percent to the State Parks Account for state park operations and staff;
- 15 percent to the Texas Recreation and Parks Account for local park grants to jurisdictions with populations under 500,000;

- 10 percent to the Large County and Municipality Recreation and Parks Account for local park grants to jurisdictions with populations of 500,000 or more; and
- 1 percent to the Conservation and Capital Account for conservation and capital projects.

DIGEST:

HB 300 would remove the statutory allocation percentages to each fund in the Texas Parks and Wildlife Department receiving sporting goods sales tax (SGST) receipts and instead limit the revenue transferred to each account to an amount not to exceed total SGST revenue available.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 300 would give the Legislature discretion in how best to spend funds for state and local parks by removing the statutory allocation percentages to each Texas Parks and Wildlife Department (TPWD) fund receiving sporting goods sales tax (SGST) receipts. Funding state parks is a major priority this budget cycle, and SGST receipts available should be allocated to state and local parks. The TPWD allocation percentages limit the Legislature's flexibility to appropriate SGST receipts where they are needed most.

For example, the local parks accounts have a balance of about $47.6 million, which could be better spent addressing deferred maintenance and health and safety concerns at state parks. By removing the statutory allocation percentages, this bill and the SGST contingency rider in the House-passed version of CSHB 1 would fund the entire TPWD request of $14 million for local parks and appropriate the remaining $33.6 million to meet the other needs of the state park system, including much-needed funds for deferred maintenance projects.

OPPONENTS SAY:

Giving the Legislature discretion on how to spend SGST revenues on state and local parks could make funding for this purpose subject to the whim of any future legislature. A more prescriptive approach would be more appropriate. For example, other legislation being considered this session would reapportion the statutory allocation percentages to give more funding to state parks to pay for deferred maintenance, while still dedicating money to address the needs of local parks.

NOTES: HB 300 was placed on the May 1 general state calendar and postponed for consideration until today at 10 a.m.

Postponed from May 1 general state calendar

SUBJECT: Creating an offense of cargo theft; expanding jurisdiction for cargo theft

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

WITNESSES: For — Jay Thompson, AFACT, NICB; John Rodriguez, Cardinal Health; Steve Dye and Spence Gates, Grand Prairie Police Department; Frederick Lohmann, National Insurance Crime Bureau; John Coughlin, Southwest Transportation Security Council; Philip Lawrence, Tech Data Corporation; Ivette (Ivy) Haley; (*Registered, but did not testify*: Adam Burklund, American Insurance Association; Donald Baker, Austin Police Department; Chris Chopin, City of Grand Prairie, Police Department; Gary Tittle, Dallas Police Department; Jessica Anderson, Houston Police Department; Bill Elkin, Houston Police Retired Officers Association; Brian Eppes, Tarrant County Criminal District Attorney's Office; Lon Craft and Heath Wester, Texas Municipal Police Association; Jim Sheer, Texas Retailers Association; Les Findeisen, Texas Trucking Association; John Pitts, Jr., UPS)

Against — None

DIGEST: CSHB 102 would create the offense of cargo theft and would provide associated penalties.

Individuals would commit cargo theft if they knowingly or intentionally conducted, promoted, or facilitated an activity in which they received, possessed, concealed, stored, bartered, sold, abandoned, or disposed of stolen cargo or cargo explicitly represented to them as being stolen. Individuals also would commit cargo theft if they were employed as a lawfully contracted driver, and with the intent to conduct, promote, or facilitate such an activity, failed to deliver the cargo or caused the seal to be broken on the vehicle or on an intermodal container containing any part of the cargo.

The penalties for cargo theft would be:

- a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) if the value of the cargo was less than $10,000;
- a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the value was $10,000 or more but less than $100,000;
- a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if the value was $100,000 or more but less than $200,000; and
- a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) if the value was $200,000 or more.

Any penalty for cargo theft valued under $200,000 would be increased to the next higher category of offense if the person organized, supervised, financed, or managed one or more other persons engaged in cargo theft. The bill would define the value of the cargo to include the value of any vehicle stolen or damaged in the course of the cargo theft.

Under the bill, it would not be a defense to prosecution for cargo theft if:

- the offense occurred as a result of law enforcement deception or strategy, such as using an undercover officer or a bait vehicle;
- the actor was provided by a law enforcement agency with a facility in which to commit the offense or an opportunity to commit the offense; or
- the actor was solicited by a peace officer to commit the offense in a manner that would encourage a person predisposed to commit the offence to do so but would not encourage a person not so predisposed to commit the offense.

The bill would authorize the prosecution of cargo theft in any county in which an underlying theft could be prosecuted as a separate offense.

This bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 102 would address the growing problem of cargo theft. As a major hub for both the transportation and warehouse industry, Texas is a prime target for criminal organizations that commit cargo theft crimes. Texas currently has one of the highest rates of cargo theft in the nation. The cost of cargo theft impacts local businesses as well as consumers because the cost of the theft is passed down in the form of increased costs of goods. It also deprives the state of significant tax revenue.

Cargo theft is difficult to prosecute under the theft statute because the crime often is committed by organized groups that are sophisticated enough to commit these thefts across multiple jurisdictions. For example, the group could steal a truck from one county, a trailer from a second, and the product from a third and then could store everything in a fourth. This movement makes it hard to prosecute all of the crimes. The theft statute also can be too broad to cover the specific factual situations involved in cargo theft.

The bill would address this problem by providing a specific offense for cargo theft, by allowing organized cargo theft to be prosecuted in any jurisdiction in which the underlying thefts occurred, and by providing enhanced penalties for certain offenses of cargo theft. The offenses provided in this bill would allow prosecutors to address the specific factual situations that arose in cargo theft cases, and the provisions on jurisdiction for cargo theft cases would allow counties to work together to tackle organized cargo theft. Establishing that all cargo theft offenses would be penalized as at least state jail felonies would reflect the severity of cargo theft and the impact the crime has on all Texans.

Taken together, the provisions of this bill would allow prosecutors to more aggressively prosecute these serious crimes, and the increased prosecution would serve as a deterrent that would reduce the incidence of cargo theft in the state.

OPPONENTS SAY:

CSHB 102 is unnecessary because crimes that would be covered by this bill are punishable under the theft statute. The bill also seeks to punish organized cargo theft, but these crimes could be prosecuted under the

organized crime statute. The penalties for low-level crimes under the bill could be excessive. Some of these incidents are low-level thefts of a small amount of cargo and should not be treated as large-scale organized cargo theft. Under current law, low-level repeat offenders can have their punishments increased, and this would be more appropriate than increasing the punishments across the board.

Postponed from May 1 general state calendar

SUBJECT: Expanding liability for the improper handling of diseased animals

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 6 ayes — T. King, C. Anderson, Cyrier, González, Simpson, Springer

1 nay — Rinaldi

WITNESSES: For — (*Registered, but did not testify*: Donald Ward, Livestock Marketing Association of Texas; Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association; Marissa Patton, Texas Farm Bureau; Robert Turner, Texas Poultry Federation)

Against — None

On — (*Registered, but did not testify*: Andy Schwartz, Texas Animal Health Commission)

BACKGROUND: Under Agriculture Code, sec. 161.041, individuals commit an offense if they improperly handle animals with communicable diseases. It is a class C misdemeanor (maximum fine of $500) if the person knowingly failed to handle livestock or fowl infected with a certain disease in accordance with rules adopted by the Texas Animal Health Commission. Subsequent offenses are class B misdemeanors (up to 180 days in jail and/or a maximum fine of $2,000).

According to 4 Texas Administrative Code, part 2, sec. 59.11, the Texas Animal Health Commission may issue an order designating standards to require testing, movement, inspection, and treatment of animals in an area or county deemed high risk for a disease.

DIGEST: CSHB 2311 would add to what could be considered an offense for the improper handling of animals infected with a communicable disease.

Individuals would be subject to a criminal penalty if they failed to handle properly an animal that had been exposed to a communicable disease or if

the animal was subject to testing by the Texas Animal Health Commission due to a risk of exposure for a communicable disease. A person would be liable only if the Texas Animal Health Commission had notified the person that the animal had been exposed or was subject to testing due to a risk of exposure.

The bill would take effect September 1, 2015, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

CSHB 2311 would help the Texas Animal Health Commission ensure the biosecurity of the food chain by attaching a criminal penalty to the improper handling of certain animals that were exposed to a communicable disease or subject to testing for disease.

By creating criminal liability for individuals who improperly handled animals that the commission suspected of having a communicable disease, this bill would help the commission enforce hold orders. A hold order requires individuals to restrict an animal's movement until the Texas Animal Health Commission can perform tests on it, and under current law, a criminal penalty applies only if an animal that is infected is handled improperly. However, it is important to restrict the animal's movement even if the commission simply suspects an animal may have been exposed to a communicable disease. With the size of modern herds and their proximity to each other, a single diseased animal can have disastrous consequences for agriculture across the entire state.

OPPONENTS SAY:

CSHB 2311 unnecessarily would expand criminal liability. The state should trust farmers and animal handlers to take this threat seriously, exercise personal responsibility, and regulate themselves accordingly. Simply creating more laws and more penalties that could threaten animal handlers with criminal liability would be unnecessary.

SUBJECT: Requiring transparency in rate-setting processes for Medicaid premiums

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Raymond, Rose, Keough, Klick, Naishtat, Peña, Price, Spitzer

0 nays

1 absent — S. King

WITNESSES: For — Jose E. Camacho, Texas Association of Community Health Centers, Inc.; (*Registered, but did not testify*: Gavin Massingill, Care Options for Kids; Ann-Marie Price, Central Health; Christine Bryan, Clarity Child Guidance Center; Marina Hench, Texas Association for Home Care and Hospice; Sid Rich, Texas Association of Residential Care Communities; Danette Castle, Texas Council of Community Centers; Bradford Shields, Texas Federation of Drug Stores; Michelle Romero, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Michael Gutierrez)

Against — None

On — (*Registered, but did not testify*: Rachel Butler and Rudy Villarreal, Health and Human Services Commission; Katy Fallon, Legislative Budget Board; Bill Hammond, Texas Association of Business)

BACKGROUND: The state's Medicaid programs provide health care to certain low-income and disabled populations through two delivery models, fee for service and managed care. Most of the state's Medicaid clients receive services through managed care.

Under the managed care programs for Medicaid and the Children's Health Insurance Program (CHIP), the Health and Human Services Commission (HHSC) pays contracted health plans a monthly amount to coordinate and reimburse for services provided to plan enrollees.

Government Code, ch. 533 governs the implementation of the state's

Medicaid managed care programs. Sec. 533.013 requires that HHSC consider various factors when determining the payment rates of premiums for health plans providing managed care services. These factors include:

- the regional variation in costs of health care services;
- the range and type of services covered by the premium payment rates;
- the number of recipients in each region; and
- the ability of the health plan to meet costs of operation under the proposed rates.

This section also directs HHSC to pursue and implement premium rate-setting strategies that encourage provider payment reform and more efficient service delivery.

Medicaid premium rate-setting methodologies can be highly complex, and elements of the process can change over time. Some have proposed that more transparency in rate setting for Medicaid premiums could help in evaluating whether rates were reasonable and appropriate and that more information about calculations and assumptions used to set premium rates could help policymakers and stakeholders to understand factors affecting program costs, determine funding needs, and assess the efficacy of the rate-setting process.

DIGEST:

CSHB 2084 would require the Health and Human Services Commission (HHSC) to publish actuarial reports containing specified information about the premium payment rate-setting process for managed care programs under Medicaid and the Children's Health Insurance Program (CHIP).

The reports required for Medicaid managed care and for CHIP would be in a format that allowed for tracing data and formulas across attachments, exhibits, and examples. They also would clearly identify and describe:

- the methodology by which the executive commissioner of HHSC set the payment rates and the data sources used;
- the components of the process that were assumptions and how

these assumptions were developed;

- multipliers and factors used throughout the reports, including their source and purpose; and
- the methodology by which the executive commissioner determined that the rates were actuarially sound for the population covered and the services provided.

CSHB 2084 also would direct a state agency needing a waiver or authorization from a federal agency to implement a provision of the bill to request that waiver or authorization. The affected state agency could delay implementation of affected provisions in the bill until the agency received the waiver or authority.

This bill would take effect September 1, 2015.

SUBJECT: Abolishing certain programs of the Texas Economic Development Bank

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 9 ayes — Button, Johnson, C. Anderson, Faircloth, Isaac, Metcalf, E. Rodriguez, Villalba, Vo

0 nays

WITNESSES: For — (*Registered, but did not testify*: Carlton Schwab, Texas Economic Development Council)

Against — None

On — Terry Zrubek, Office of the Governor, Economic Development and Tourism

BACKGROUND: Government Code, ch. 489 established the Texas Economic Development Bank. The bank houses a number of financing and other economic development programs to provide globally competitive, cost-effective state incentives to expanding businesses operating in or relocating to Texas.

The Small Business Industrial Development Corporation, governed by Local Government Code, ch. 503, and the Linked Deposit Program, governed by Government Code, ch. 481, subch. N, are programs within the Texas Economic Development Bank designed to increase small, medium, and historically underutilized businesses' access to credit.

Both the Small Business Industrial Development Corporation and the Linked Deposit Program have been dormant for years and currently have little to no funding. The Office of the Governor and the Office of the Comptroller of Public Accounts have other programs designed to increase small and historically underutilized businesses' access to credit.

DIGEST: CSHB 2667 would discontinue the Small Business Industrial

Development Corporation and the Linked Deposit Program. The Linked Deposit Program would be allowed to continue for the limited purpose of allowing the Texas Economic Development Bank to administer linked deposits made before the effective date of the bill and to pursue remedies for borrowers who defaulted on their loans or banks that failed to comply with the subchapter governing the Linked Deposit Program.

As soon as practicable after the effective date of the bill, the Texas Economic Development Bank would be required to send any remaining funds from the Texas Small Business Industrial Development Corporation to the comptroller's office to be deposited in the general revenue fund.

The bill would take effect September 1, 2015.

NOTES: The Legislative Budget Board estimates that CSHB 2667 would have a positive impact of $846,024 to general revenue through fiscal 2016-17.

SUBJECT: Requiring certain intoxication offenders to use ignition interlock devices

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody, M. White, Wray

0 nays

WITNESSES: For — David McGinty, City of Arlington Police Department; Patty Carter, Tamberly Robinson, Colleen Sheehey-Church, and JT Griffin, Mothers Against Drunk Driving (MADD); Dib Waldrip, Texas Association of Drug Court Professionals; David Hodges; (*Registered, but did not testify*: Anne ORyan, AAA Texas; Dottie McDonald, Coalition for Ignition Interlock Manufacturers, Smart Start, Inc.; Debra Coffey, Coalition of Ignition Interlock Manufacturers; Lorrie Calderon, Carlton Caudle, Jason Derscheid, Jaime Gutierrez, Frank Harris, Elizabeth Haverkamp, Becky Iannotta, Anna Smith, Gary Smith, Graciela Talamantes, Gloria Vasquez, Vanessa Marquez, Mandy Fultz, Arturo Huerta, Dorene Ocamb, Karah Ricketts, Tracy Sheets, and Ben Smith, Mothers Against Drunk Driving (MADD); Cathy Dewitt, Texas Association of Business; Shanna Igo, Texas Municipal League)

Against — Ray Allen and Rodney Thompson, Texas Probation Association

On — Rebekah Hibbs, Texas Department of Public Safety

BACKGROUND: An ignition interlock device connects to a vehicle's ignition system and prevents a vehicle from starting unless the device registers a blood alcohol concentration (BAC) below a preset level after the driver blows into it. The level is often set at a BAC of 0.02.

Under Transportation Code, sec. 521.246, a judge has discretion to restrict a person to operating a vehicle equipped with an ignition interlock device if the person's license has been suspended following a first conviction of

driving while intoxicated, intoxication assault, or intoxication manslaughter. Ignition interlock devices are required to be ordered for a person with two or more convictions for an offense of driving while intoxicated, intoxication assault, or intoxication manslaughter or if the person's license has been suspended after a conviction for driving while intoxicated for which the person received an enhanced penalty. The court must order the ignition interlock device to remain installed for at least half of the period of supervision.

Code of Criminal Procedure, art. 42.12, sec. 13(i) requires interlock devices as a condition of probation for first-time offenders with a blood alcohol concentration of 0.15 or greater.

DIGEST:

CSHB 2246 would make changes to certain restrictions in current law related to driving after convictions of intoxication offenses.

A judge would be required, rather than allowed, to restrict a person to operating a vehicle with an ignition interlock device installed if the person's license had been suspended after conviction of a first intoxication offense. The court would have to order that a device remain installed for the entire period of suspension, instead of at least half of the period as under current law.

As a condition of probation, a person whose license had been suspended for certain intoxication offenses could operate a motor vehicle if the person used an ignition interlock device for the entire period of the suspension and obtained an occupational driver's license with an ignition interlock designation. The applicable intoxication offenses would be:

- driving while intoxicated;
- driving while intoxicated with a child passenger;
- flying while intoxicated;
- boating while intoxicated;
- assembling or operating an amusement park ride while intoxicated;
- intoxication assault; and
- intoxication manslaughter.

Those convicted of any of the offenses listed above would not be eligible to apply for an occupational license through a verified petition, whereas current law applies this restriction only to the offense of driving while intoxicated.

A person who was convicted of an intoxication offense and was restricted to operating a vehicle with an ignition interlock device could receive an occupational license without requiring a finding that an essential need existed for that person, as long as the person showed evidence of financial responsibility and proof that the person had a device installed on each vehicle they owned or operated.

A special restricted license for a person limited to operating a vehicle with an ignition interlock device would have to indicate conspicuously that the person was authorized to operate only a motor vehicle that was equipped with a device. A person who was restricted to operating a vehicle with a device could not be subject to certain restrictions on time of travel, reason for travel, or location of travel.

A court could issue an occupational license to someone who submitted proof that the person had a device installed on each vehicle the person owned or operated. The court could revoke the occupational license and reinstate the driver's license suspension if the person failed to maintain an installed ignition interlock device on each vehicle they owned or operated.

The bill also would expand the applicability of other sections of law, including those governing the effective date of occupational licenses, which currently apply only to certain intoxication offenses to include the additional intoxication offenses.

The bill would take effect on September 1, 2015, and would apply only to a person whose driver's license was suspended on or after that date.

SUPPORTERS SAY:

CSHB 2246 would prevent those whose licenses had been suspended due to an intoxication offense from continuing to drive with a suspended license and endangering their communities. Many individuals with suspended licenses for intoxication offenses continue to drive, and an ignition interlock device would be more effective than a license

suspension alone. A significant number of drunk driving deaths in the United States happen in Texas, and this bill would protect other drivers by helping to prevent drunk driving.

Ignition interlock devices use effective technology to detect unsafe levels of alcohol in a person's system, and they are difficult to sidestep. The devices are equipped with anti-circumvention technology, such as a camera that snaps a photo of the individual blowing into the device to verify the identity of the driver. Studies have shown these devices to be highly effective at reducing re-arrest rates for alcohol-impaired driving. Defendants would be compliant with the interlock device system because they could not get an occupational license without first proving that they had installed one in their vehicle.

HB 2246 would not increase supervisory costs for probation departments. At the time a judge orders an occupational license, the judge may order a supervisory fee to help cover costs of supervision. Eventually the bill would actually reduce the caseloads of probation departments by reducing the number of defendants driving without a license and without insurance.

The ignition interlock devices would not be mandatory for anyone, although the use of such a device would allow certain individuals whose licenses were suspended for an intoxication offense to maintain driving privileges if they wished. An individual who chose not to continue driving after a license suspension would not be required to apply for an occupational license.

CSHB 2246 would not burden taxpayers because offenders would be required to buy their own devices. Vendors likely would work with individuals who could not afford an ignition interlock device to assist them in purchasing and installing the device in their vehicles. Because applying for an occupational license with an interlock device would be discretionary for defendants, if they felt they could not afford it, they could remain with a suspended license without cost.

Public transportation is not available in many parts of Texas, and most people depend on their cars to fulfill daily responsibilities. The bill would allow individuals who had their licenses suspended because of an

intoxication offense to continue driving to work, to attend school or treatment, and to continue supporting themselves and their families.

Similar laws in other states have proven successful in reducing drunk driving deaths. This bill would help to avoid these tragedies in Texas.

OPPONENTS SAY:

CSHB 2246 could expand the caseload for probation departments without providing an increase in funding. It could require greater supervision by probation departments of first-time offenders and reduce focus on high-risk repeat offenders. Most first-time DWI offenders will never re-offend, and mandating interlock devices for these individuals would require supervision that could dilute the resources of probation departments.

CSHB 2246 also would remove the discretion of judges to determine when an interlock device was necessary. This decision should be made under judicial authority instead of mandating the devices for all offenders.

The bill may not be effective in preventing drunk driving because the ignition interlock device may not be reliable and a number of ignition interlock users do not actually comply with current law that requires these devices. There is better, newer technology that could be used instead. Also, the locking device can be circumvented if a sober individual blows into the device in place of the driver.

The bill could create a costly burden on offenders who need to drive to maintain their daily activities and support their families. The cost of the device is placed on the offenders who might not be able to afford to buy them or have them installed in their vehicles.

SUBJECT: Investment of funds by certain municipal hospital authorities

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Crownover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For — Don Arnwine, Irving Hospital Authority; Kevin Reed, Metrocrest and Irving Hospital Authorities; Charles Heath, Metrocrest Hospital Authority; (*Registered, but did not testify*: Dan Posey, Baylor Scott and White Health; Gregg Knaupe, Seton Healthcare Family)

Against — None

BACKGROUND: Health and Safety Code, sec. 262.039 enables certain municipal hospital authorities to invest authority funds in any investment a trustee is authorized to make under Property Code, title 9, subtitle B, which governs the creation, operation, and termination of trusts, and as provided by Government Code, ch. 2256, the Public Funds Investment Act.

Only a municipal hospital authority in Harris County with no outstanding bonds that can be issued by a municipal hospital authority under Health and Safety Code, ch. 262, subch. D and that does not own or operate a hospital may invest authority funds in these types of investments.

DIGEST: CSHB 3333 would allow a municipal hospital authority to invest authority funds in certain investments if it was located in Dallas County, in addition to Harris County, or if it was located in a municipality of less than 15,000 and if it had assets that exceeded the amount of any outstanding bonds that can be issued by a municipal hospital authority under Health and Safety Code, ch. 262, subch. D. These investments include any investment a trustee is authorized to make under Property Code, title 9, subtitle B, which governs the creation, operation, and termination of trusts, and as provided by Government Code, ch. 2256, the Public Funds Investment Act.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 3333 would give certain municipal hospital authorities the investment flexibility they need to maximize their current resources and meet the unmet health care needs of their communities. The current restrictions in statute limit the return on investment that certain municipal hospital districts can receive. The bill would allow additional hospital districts to gain a higher return on their investments so they could improve the health status of residents in their communities.

SB 233 by Patrick, enacted by the 83rd Legislature in 2013, allowed the Tomball hospital authority to invest authority funds in these types of investments, which was successful in helping that authority to meet its residents' health care needs. CSHB 3333 would allow the hospital authorities in this bill, such as eligible authorities in Dallas County, to do the same. Although these hospital authorities could not be entities that operated a hospital, they still provide vital services to residents of those communities through charity care.

While allowing hospital authorities to invest in higher-return investments carries more risk, the bill would allow these additional hospital districts to invest in high-quality investments that would provide a greater amount of money to spend on the health care needs of their communities. Any investment will carry some risk, but the hospital authorities' boards would not allow an overly risky investment.

OPPONENTS SAY:

CSHB 3333 would allow certain municipal hospital authorities to take on investments that have greater risk, which could lead these authorities to lose funds in the case of a bad investment rather than gaining a greater return, as intended.

SUBJECT: Permitting the electronic filing of bail bonds

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

WITNESSES: For — Mandi Krasney and Joe Flack, Jr., Financial Casualty and Surety, Inc.; (*Registered, but did not testify*: Justin Arman, Texans for Accountable Government; Bill Hammond, Texas Association of Business; Patricia Cummings, Texas Criminal Defense Lawyers Association; Jeffrey Knoll; Heather Ross; Lee Spiller)

Against — (*Registered, but did not testify*: Kenneth Good, Professional Bondsmen of Texas)

On — (*Registered, but did not testify*: Scott Walstad, Professional Bondsmen of Texas)

DIGEST: HB 2499 would allow bail bonds to be filed electronically with courts, judges, magistrates, or other officers taking the bond.

The bill would take effect September 1, 2016.

SUPPORTERS SAY: HB 2499 would let courts and others know that they have authority to implement electronic filing systems for bail bonds. While some courts already are accepting electronically filed bail bonds and others are moving toward such systems, there is no explicit authority in state law to do so. HB 2499 would make it clear that bail bonds could be filed electronically so that all entities were aware of the option, but it would not mandate that an e-filing system be used.

By raising awareness of the option to file bail bonds electronically, HB 2499 could help the bail system transition along with other court systems to electronic filing. The civil court system's transition to an e-filing system is underway and will be required for all civil courts by July 2016.

The Court of Criminal Appeals and the Texas Supreme Court are expected this summer to release rules for criminal court e-filing.

Because of the many benefits of e-filing, the state should do what it can to let courts know they can use the system for bail bonds. Filing bail bonds electronically can reduce costs for courts and sureties, make the process more secure, and increase accuracy in the transmittal of information on the bonds.

OPPONENTS SAY:

HB 2499 is unnecessary. Rules concerning e-filing for criminal courts are expected this summer from the Court of Criminal Appeals and the Texas Supreme Court, and it might be best to wait for the rules before enacting legislation about the e-filing of bail bonds.

SUBJECT: Limiting entities to be contracted as construction managers-at-risk

COMMITTEE: Government Transparency and Operation — favorable, without amendment

VOTE: 7 ayes — Elkins, Walle, Galindo, Gonzales, Gutierrez, Leach, Scott Turner

0 nays

WITNESSES: For — Perry Fowler, The Texas Water Infrastructure Network (TxWIN); (*Registered, but did not testify*: Jon Fisher, Associated Builders and Contractors of Texas; Carolyn Brittin, Associated General Contractors of Texas; Jennifer McEwan, Texas Society of Professional Engineers; Tara Snowden, Zachry Corporation; Billy Phenix)

Against — Douglas Varner, CDM Smith; Bill Mullican, Mullican Associates; Shirley Ross, Wells Branch MUD

BACKGROUND: HB 628 by Callegari, enacted by the 82nd Legislature in 2011, gave governmental entities the option to contract for certain projects using the construction manager-at-risk (CMAR) method, an alternative to the traditional process. Unlike with traditional contract bidding, governmental entities are not required to select the lowest bid but instead may choose based on a number of criteria.

Government code, ch. 2269, subch. F governs the CMAR process for governmental entities. Under sec. 2269.251, a CMAR is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the governmental entity on construction during and after the design phase.

Under sec. 2269.252(b), a governmental entity's architects or engineers for projects may not serve as the CMAR unless they are hired to serve as the CMAR under a separate or concurrent selection process.

DIGEST:

HB 2634 would prevent related entities from acting as both the design engineer and the construction manager-at-risk (CMAR) in government contracting. The bill would forbid entities related to the architect or engineer from acting as the CMAR and would remove the provision in current law that allows related entities to act in this role if they are selected as part of a separate selection process.

HB 2634 also would specify that a related entity for the purposes of CMAR contracting was any organization that had a shared ownership interest, partnership, or revenue-sharing arrangement with the design contractor itself or a subsidiary.

The bill would take effect September 1, 2015, and would apply only to a contract for the services of a CMAR entered into on or after that date.

SUPPORTERS SAY:

HB 2634 would provide fairness in the government contracting process by prohibiting entities related to the architect or engineer from being contracted for the design and construction phases of a project. Because the Government Code allows the same firm to contract for both phases, design engineers can submit designs that favor a particular firm to do the construction. This keeps many qualified construction contractors from being able to bid on projects and makes construction manager-at-risk (CMAR) contracting a de facto design-build process.

Current statute opens a loophole for conflicts of interest. The design engineer is supposed to serve as the owner's representative, but if the design engineer and the CMAR are from the same entity, the designer could be serving the interests of the CMAR, not the contracting government. Design engineers often are involved in the hiring process for CMARs, and if one is an entity related to the design firm, it might not be impartial in the selection process.

OPPONENTS SAY:

HB 2634 would prevent governmental entities from selecting the most qualified contractor for a project and, therefore, could prevent them from getting the best value for taxpayer dollars. Governments need the ability to procure the CMAR that has the expertise to complete a project, whether or not the CMAR has ties to the design engineer.

The bill could be a step backward toward lowest-bid contracting, which can result in poor-quality work that costs taxpayers more in the long run. Related contractors may have the best understanding of a project. It is often the case that design engineers and CMARs work for the same organization because their organization has core competencies on a particular project that cannot be matched by a general contractor.

Current law requires a separate procurement process for design engineers and CMARs. It also requires published selection criteria that prevent design engineers from favoring one CMAR over another. These policies emerged out of a consensus-based process in 2011 and have helped to reduce bias in the selection of contracted entities.

SUBJECT: Adopting study on employers who do not provide workers' compensation

COMMITTEE: Business and Industry — favorable, with amendment

VOTE: 6 ayes — Oliveira, Simmons, Collier, Fletcher, Romero, Villalba

1 nay — Rinaldi

WITNESSES: For — Rick Levy, Texas AFL-CIO; Maxie Gallardo, Workers Defense Project; (*Registered, but did not testify*: Michael Chatron, AGC Texas Building Branch; Jim Grace, CenterPoint Energy, Inc.; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Ashley Harris, Texans Care for Children; Ned Munoz, Texas Association of Builders; Michael White, Texas Construction Association)

Against — Steve Bent, Texas Association of Responsible Nonsubscribers; (*Registered, but did not testify*: Stephanie Simpson, Texas Association of Manufacturers)

On — Richard Evans, Texas Alliance of Nonsubscribers; (*Registered, but did not testify*: Amy Lee, Texas Department of Insurance, Division of Workers' Compensation; DC Campbell, Texas Department of Insurance)

DIGEST: HB 2587, as amended, would require the workers' compensation research and evaluation group of the Division of Workers' Compensation of the Texas Department of Insurance to conduct a study to:

- identify industries in which employers tend not to participate in the workers' compensation system and determine why not; and
- determine the extent to which injured employees of non-participating employers rely on public benefits for the treatment and rehabilitation of their injuries and to replace lost income while their injuries leave them unable to work.

The bill would allow the division to require employers that elected not to participate in the workers' compensation system or did not offer an alternative occupational benefit plan to submit information to the division

as necessary to complete the study.

If requested by the workers' compensation research and evaluation group, the Texas Workforce Commission, Health and Human Services Commission, Department of State Health Services, and Texas Health Care Information Council would provide information or otherwise assist the group in preparing the report.

The workers' compensation commissioner would submit a report containing the findings of the study to the governor, lieutenant governor, speaker of the House of Representatives, and appropriate standing committees of the Legislature by December 1, 2016. HB 2587 would expire December 31, 2016.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 2587 would provide valuable information to the Legislature and to taxpayers by requiring a study and report on injured workers not covered by the workers' compensation system or an alternative benefit plan.

According to data from the Texas Department of Insurance's Division of Workers' Compensation, about 80,000 Texas employers — about 22 percent — do not carry workers' compensation insurance or offer an alternative plan, which leaves about 470,000 of their workers without coverage. Job-related injuries to these workers contribute to the high costs of uncompensated care borne by Texas hospitals and taxpayers, including those with insurance to whom some of these costs are inevitably passed. In addition, some workers not covered through the workers' compensation system end up relying on public assistance when they cannot afford to pay for care or are unable to work due to injury.

When a business elects not to provide workers' compensation coverage or an alternative plan to its workers, it essentially shifts these costs to others while gaining a competitive advantage over good corporate citizens who cover their workers. This is not a model that should be supported in Texas. The state has very little information on workers who are not covered under any option and the businesses that employ them, including the rate and severity of injuries in this population, health costs and who

pays for them, how often such employees must turn to public assistance, and which industries are most affected. HB 2587 would put such information into the hands of lawmakers and help them craft meaningful policy proposals to address these issues.

Providing information for the study would not be an excessive burden to employers. The collection and reporting of this information stems from an interim recommendation of the House Committee on Business and Industry to the 84th Legislature. Meeting this state priority would more than justify any extra paperwork on the part of businesses that do not provide any form of workers' compensation coverage.

OPPONENTS SAY:

HB 2578 could burden businesses and manufacturers required to provide information for the study. Smaller businesses especially might find it difficult to arrange for the extra work and man hours needed to respond. It would be more appropriate to request the voluntary disclosure of this information from businesses. Also, the mandate in the bill could point toward requiring all employers to provide coverage through workers' compensation insurance or an alternative occupational benefit plan, which would be overstepping.

NOTES:

The Business and Industry Committee recommended two amendments to HB 2587.

Committee Amendment No. 1 would specify that those who did not participate in the workers' compensation system or offer an alternative occupational benefit plan would provide information for the study, rather than only those who did not participate in the workers' compensation plan.

Committee Amendment No. 2 would require the workers' compensation commissioner to submit a report containing the findings of the study to the governor and the Legislature by December 1, 2016. It also would require the assistance of various state agencies in preparing the report if requested by the workers' compensation research and evaluation group.

SUBJECT: Expanding liability for the sale or use of an incorrect measuring device

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 6 ayes — T. King, C. Anderson, Cyrier, González, Simpson, Springer

1 nay — Rinaldi

WITNESSES: For — None

Against — Judith McGeary, Farm and Ranch Freedom Alliance

On — (*Registered, but did not testify*: Patrick Dudley and A.J. Wilson, Texas Department of Agriculture)

BACKGROUND: Agriculture Code, sec. 13.037(a) makes it a class C misdemeanor (maximum fine of $500) for a person to knowingly use an incorrect weighing or measuring device in commerce. Sec. 13.120(b) makes it a class C misdemeanor for a person to knowingly sell an incorrect weighing or measuring device.

Sec. 13.007 allows the Texas Department of Agriculture to pursue civil penalties or an injunction against persons who either use or sell an incorrect weighing or measuring device.

DIGEST: HB 2704 would amend Agriculture Code, sec. 13.037(a) and sec. 13.120(b) to remove the word "knowingly" from the subsections that describe the offenses of using or selling an incorrect weighing or measuring device.

The bill would apply only to conduct that occurred on or after the bill's effective date. For the purposes of enforcement, conduct would be considered to have occurred before the effective date of the bill if any element of the conduct occurred before that date.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 2704 would make it easier for the Department of Agriculture to keep merchants from tampering with scales and meters by removing the word "knowingly" from the subsections creating an offense for the use of an incorrect weighing or measuring device. Scale tampering can have serious negative effects on conservation efforts and the commodities market. The knowing use of incorrect weighing and measuring devices can be difficult to detect and even harder to enforce. By lowering the culpable mental state required for an offense, the bill would provide an incentive for merchants to make sure their weighing and measuring devices were accurate. Legislation enacted in 2013 added the word "knowingly" to the applicable provisions in Agriculture Code, sec. 13.037 and sec. 13.120 and put an additional burden on the Department of Agriculture to enforce the law.

OPPONENTS SAY:

HB 2704 could place a person acting in good faith and unaware that a weighing or measuring device might be malfunctioning at risk of criminal liability. The state should trust merchants to ensure that their weighing equipment is functioning properly. Creating more laws and more penalties that could threaten merchants with criminal liability would be contrary to the principles of limited government and personal responsibility.

SUBJECT: Requirements for state agency tuition reimbursements for employees

COMMITTEE: General Investigating and Ethics — favorable, without amendment

VOTE: 5 ayes — Kuempel, Collier, S. Davis, Larson, C. Turner

0 nays

2 absent — Hunter, Moody

WITNESSES: None

BACKGROUND: Government Code, sec. 656.044 authorizes state agencies to use public funds to provide training and education for administrators and employees. The training and education must be related to administrators' and employees' duties or prospective duties.

Under Government Code, sec. 656.047, state agencies can spend public funds to pay the salary, tuition, fees, travel and living expenses, training stipend, training materials expenses, and other necessary expenses of an instructor, student, or other participant in a training or education program.

Government Code, sec. 656.048 requires state agencies to adopt certain rules relating to training and education. Agencies are required to adopt rules relating to the administrators' and employees' eligibility for training and education and their obligations on receiving the training. Before spending money on training, agencies are required, under Government Code, sec. 656.102, to adopt a policy that requires training to relate to employees' duties following training.

DIGEST: HB 3337 would prohibit state agencies from reimbursing employees or administrators for tuition expenses for training or education programs offered by higher education institutions unless the programs were successfully completed at an accredited institution. State agencies would have to adopt rules requiring executive agency heads to authorize the tuition reimbursement payments before they could be made.

The current mandate that agencies have a policy requiring training to relate to employees' duties would be expanded to include additional conditions. The policy would have to provide clear and objective guidelines governing tuition reimbursements for training and address tuition reimbursements for nontraditional training, including online courses or courses not credited toward a degree. The policy would have to be posted on the agency's website under its employment section.

HB 3337 would take effect September 1, 2015, and would apply only to training and education expenses paid on or after that date.

SUPPORTERS SAY:

HB 3337 would help to ensure that state agencies had transparent and fair policies for reimbursing employees for higher education tuition expenses and that these programs had adequate oversight and accountability.

The bill would require agencies to have established policies with clear, objective guidelines for reimbursements and to have those policies posted on agency websites. Recent reports regarding state agency tuition reimbursement programs have highlighted several issues, including paying costs up front, paying for some employees' costs but not others, and paying for education that is unrelated to an employee's job. The bill would improve accountability of these programs by requiring executive agency heads to authorize reimbursement and by allowing reimbursements only after successful completion of a program. The requirements would not burden state agencies, some of which already are reviewing and updating their polices in response to the recent reports.

Tuition reimbursement programs can benefit state agencies and the public by helping train and educate state employees to improve their public service. HB 3337 would be a step in the right direction in addressing issues with the programs and would help ensure proper handling of taxpayer dollars. If more needed to be done after the changes in HB 3337 were implemented, the Legislature could address that in the future.

OPPONENTS SAY:

HB 3337 should go further in increasing transparency by requiring state agencies to report annually on their tuition reimbursement programs. A report detailing amounts and how they were spent could help the state evaluate the effectiveness of such programs, indicate if further changes

were needed, and ensure taxpayer money was being used responsibly.

SUBJECT: Repealing the cap on dual credit courses for certain high school students

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Aycock, Allen, Bohac, Deshotel, Galindo, González, Huberty, K. King, VanDeaver

0 nays

2 absent — Dutton, Farney

WITNESSES: For — (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Jon Fisher, Associated Builders and Contractors of Texas; MaryAnn Whiteker, Hudson ISD; Mike Meroney, Huntsman Corp., BASF Corp., and Sherwin Alumina, Co.; CJ Tredway, Independent Electrical Contractors of Texas; Kelli Moulton, Texas Association Community Schools, Hereford ISD; Nelson Salinas, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Fred Shannon, Texas Association of Manufacturers; Casey McCreary, Texas Association of School Administrators; Kyle Ward, Texas Parent Teacher Association; Colby Nichols, Texas Rural Education Association; Les Findeisen, Texas Trucking Association; Grover Campbell, Texas Association of School Boards)

Against — None

On — (*Registered, but did not testify*: Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, sec. 130.008 permits a junior college to offer a course in which a public or private high school student may simultaneously earn course credit toward the student's high school graduation requirements as well as course credit at the junior college. These "dual credit" courses allow high school students to obtain credit at a junior college at a price that is often lower than the cost of traditional junior college courses. The price is set through an agreement between the junior college and the high school's school district or, in the case of a private high school, the

organization that operates the school.

Education Code, sec. 130.008(f) prohibits a student from attending more than three courses at a junior college if the student's high school is outside the junior college's service area.

Sec. 130.161 defines service area as the territory within the boundaries of the taxing district of a junior college district or as the territory outside the boundaries of the taxing district of a junior college district in which the junior college provides services.

DIGEST:

HB 2812 would repeal Education Code, sec. 130.008(f) to permit a public or private high school student to enroll in more than three dual credit courses at a junior college whether or not the student's high school district was in the junior college's service area.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Exempting from sales taxes certain rentals to full service event businesses

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 8 ayes — D. Bonnen, Bohac, Button, Darby, Murphy, Parker, Springer, Wray

3 nays — Y. Davis, Martinez Fischer, C. Turner

WITNESSES: For — (*Registered, but did not testify*: Scott Joslove, Texas Hotel and Lodging Association)

Against — None

BACKGROUND: Tax Code, sec. 151.302 exempts sales for resale from the sales tax.

DIGEST: HB 2844 would include in the definition of a "sale for resale" the lease or rental of reusable personal property to a full service event business if the event business used the property in the sale of a taxable item.

The bill would define "full service event business" to mean a person engaged in the business of preparing food or drinks for events and providing at least one of the following for those events:

- staff;
- rentals of tangible personal property;
- design elements; or
- floral items.

The bill would not affect tax liability accruing before its effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: HB 2844 would end the double taxation that occurs when an item is leased to a full service event company that must charge its customers sales

tax for the use of the same property. A catering company that leases plates from a vendor, for instance, is taxed when it leases the plates for use at an event. The same plates are taxed again when the customer pays sales tax on the services provided by the catering company. In short, the same item is taxed twice.

The Tax Code recognizes that double taxation is unsound economic policy. This is why it excludes items that are used to make other items or items being sold to a distributor or dealer. The Tax Code is written to explicitly exclude "tax pyramiding," in which the cost of an item increases significantly from being taxed multiple times before it reaches the end consumer.

OPPONENTS SAY:

HB 2844 would unfairly provide a tax break to full service event companies. No one person is being double taxed in the instance of supplying plates for an event — the first tax is levied on the vendor who sells the plates, and the second tax is levied on the full service event company's services. This is no different from taxing a video rental company when it first purchases the movies from a publisher and then requiring customers to pay sales tax when they rent the movies. Double taxation is only problematic if it taxes the same person for the same item twice. In this case, different people are being taxed.

NOTES:

The Legislative Budget Board's fiscal note indicates that the bill would have a negative effect of $8.6 million in lost sales tax revenue through fiscal 2016-17 if the bill took immediate effect. If the bill took effect September 1, 2015, its estimated negative impact would be $7.7 million through fiscal 2016-17.

SUBJECT: Limiting appraised value for projects in multiple school districts

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 11 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Parker, Springer, C. Turner, Wray

0 nays

WITNESSES: For — Joe Newman, Elgin Economic Development Corporation; Heath DePriest, Phillips 66; Richard Bennett, Texas Association of Manufacturers; Dale Craymer, Texas Taxpayers and Research Association; James LeBas, TxOGA, and Texas Chemical Council; Daniel Casey; (*Registered, but did not testify*: Mike Sutherland, Association of Rural Communities in Texas; Dana Harris, Austin Chamber of Commerce; Fred Shannon, Hewlett Packard; Mike Meroney, Huntsman Corp., BASF Corp., and Sherwin Alumina, Co.; David Cagnolatti, Phillips 66; Chris Shields, San Antonio Chamber of Commerce; Sarah Matz, TechAmerica; Cathy Dewitt, Texas Association of Business; Dominic Giarratani, Texas Association of School Boards; Carlton Schwab, Texas Economic Development Council; David Anderson, Texas Fast Growth School Coalition; Daniel Womack, The Dow Chemical Company; Max Jones, The Greater Houston Partnership, The Metro Eight Chambers of Commerce: Arlington, Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, San Antonio)

Against — Dick Lavine, Center for Public Policy Priorities

On — (*Registered, but did not testify*: Robert Wood, Comptroller of Public Accounts)

BACKGROUND: Tax Code, ch. 313, otherwise known as the Texas Economic Development Act, provides for temporary limitations of appraised value for property on which certain projects involving qualified investments, such as the construction of manufacturing plants, are based.

DIGEST: CSHB 2826 would change how the Texas Economic Development Act

applied to projects located in two school districts, or three school districts if each school district was adjacent to another school district where the project was located.

The bill would provide that, for the purposes of determining the minimum amount of qualified investment and the minimum amount of a limitation on appraised value, a project was considered to be located in the school district that had the highest taxable value of property for the preceding tax year.

The minimum amount of limitation on appraised value to which a school district could agree would be the minimum limitation provided by Tax Code, sec. 313.027 multiplied by the percentage of the total qualified investment that was based in the school district.

In determining whether the property was eligible for a limitation of appraised value under Tax Code, ch. 313 the bill would require the comptroller to consider whether the project would be eligible if it were located at one site in a single school district.

If all parts of a project were located within a school district in a strategic investment area or certain rural school districts, for the purposes of determining the required minimum amount of qualified investment and minimum limitation on appraised value, the project would be considered to be located in the school district which had the highest taxable value of industrial property for the preceding tax year.

The bill would not affect the requirement that each school district enter into an agreement with the entity applying for a limitation on appraised value.

This bill would take effect September 1, 2015, and would apply only to an application filed under Tax Code, ch. 313 on or after that date.

SUPPORTERS SAY:

CSHB 2826 would increase investment in the state by creating a clear process to evaluate applications for limitations on appraised value for projects in multiple districts. Current evaluation processes unnecessarily disqualify a project that does not separately qualify in each school district.

Texas might miss out on large investment projects that it could attract with a simple clarification of the law.

These economic development incentives are becoming more expensive because Texas is competing against many other states to attract valuable projects. When a company decides to locate major projects in the state, it brings permanent jobs and a permanent increase in economic activity.

Any oversight problems would not be exacerbated because there are a significant number of provisions in this bill that would ensure the incentives were a net gain for the state. For instance, each school district would retain discretion over which projects were selected. If a project was beneficial only for one school district and would result in a net loss for the state, then the other districts would not necessarily agree to the limitation on appraised value.

Applications for incentives under this program involving multiple school districts already are comparatively slow because a business must pursue qualification separately in each school district. Most states process applications at the state level, which is significantly faster than pursuing qualification with the individual school district and then the comptroller. To prevent Texas from losing out on significant investment, the Legislature should act to create a clear process for approving applications in multiple school districts.

OPPONENTS SAY:

CSHB 2826 would expand an already overly broad economic development incentive program, which could make it more vulnerable to misuse and eventually could cost the state billions in revenue.

The cost of the limited appraisal incentives is growing out of control due to inadequate oversight. Current law provides that the limitation in appraised value is given only if the project would not otherwise locate in the state and if the project brings a sufficient amount of economic activity to the state. This is important because the purpose of these incentives is to draw enough businesses to the state that otherwise would not have located here to offset the short-term cost of lost revenue. Without these requirements, the program merely would be forfeiting state tax dollars.

However, current law does not require school districts or the comptroller to verify businesses' assertions that the projects meet these requirements. In fact, the State Auditor's Office noted that school districts relied primarily on certifications that businesses submit. The program should not be expanded until this oversight is fixed.

This bill could allow otherwise ineligible projects to gain eligibility if one part of the project was eligible. In other words, a business could construct a portion of the project in one school district that was eligible, and then string together a variety of other related projects in adjacent school districts that would be otherwise ineligible. The bill should prevent this by requiring at least 60 percent of the project to be otherwise eligible.

NOTES:

The Legislative Budget Board's fiscal note indicates no impact to state revenue through fiscal 2016-17, but a gradually increasing cost to the Foundation School Fund in future biennia, starting at $1.2 million in fiscal 2018-19 up to $114.6 million in fiscal 2024-25.

SUBJECT: Prohibiting elected officials from collecting pension while in office

COMMITTEE: Pensions — favorable, without amendment

VOTE: 7 ayes — Flynn, Alonzo, Hernandez, Klick, Paul, J. Rodriguez, Stephenson

0 nays

WITNESSES: For — (*Registered, but did not testify*: David Crow, Arlington Professional Fire Fighters; Lon Burnam, Public Citizen; Annie Mahoney, Texas Conservative Coalition)

Against — None

On — Robin Hardaway, Employees Retirement System

BACKGROUND: Government Code, sec. 813.503 allows a member of the elected class to transfer service credit to the employee class under certain conditions. If these members meet specified criteria, they may retire from the employee class and receive a service retirement annuity, according to sec. 814.104.

DIGEST: HB 408 would prevent members of the elected class, except a district attorney or criminal district attorney, from transferring their service credited in the elected class to the employee class until they left office.

The bill also would prevent members of the elected class from retiring and receiving a service retirement annuity that was based on service credit transferred to the employee class from the elected class until they left office.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to an elected official who took an oath of office on or after that date.

SUPPORTERS SAY: HB 408 would ensure that elected officials did not get paid twice for the

same job by receiving both public pension benefits and their state salaries.

The bill would eliminate the disparity between members of the elected class and the employee class. Members of the employee class cannot begin receiving public pension benefits until after they leave their positions, and if they want to return to work after retiring, the agency that hires them must pay a surcharge. This bill would ensure that members of the elected class did not receive a benefit that was unavailable to the employee class.

HB 408 would not have a significant fiscal impact because the size of the elected class is small, but it would strengthen the public's trust and faith in elected officials. The bill would send a message that legislators' commitment to fiscal responsibility extended to their own salaries.

OPPONENTS SAY:

This bill could prevent officials who had dedicated their lives to public service from continuing to serve the state. Many elected positions in the state receive small salaries, so some of the most experienced state officials might be discouraged from continuing to serve if they could not begin receiving their pension payments before leaving office.